



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2021-0640; FRL-10117-02-R5]

**Air Plan Approval; Indiana; Revisions to Particulate Matter
Rules; Vertellus**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the Indiana particulate matter State Implementation Plan (SIP) that Indiana submitted to EPA on September 16, 2021, for the Vertellus Agriculture and Nutrition Specialties, LLC (Vertellus) facility located in Indianapolis, Marion County. Indiana requested revisions to incorporate site-specific updates to the particulate matter emission limits for Vertellus. The updates reflect revised emission rates for particulate matter resulting from process changes related to control strategies for other pollutants. The SIP submission request also removes requirements that applied to units no longer in operation and updates language to reflect a switch from petroleum oil to natural gas for certain units. These changes represent a decrease in overall particulate matter emissions.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under

Docket ID EPA-R05-OAR-2021-0640. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Alisa Liu, Environmental Engineer, at (312) 353-3196 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Alisa Liu, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-3193, *liu.alisa@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. What is being addressed in this document?

This rule takes final action on the September 16, 2021, request from the Indiana Department of Environmental Management (IDEM) to incorporate revisions to Indiana's particulate matter

rules contained in Indiana Administrative Code (IAC), Title 326, Article 6.5, Rule 6. Marion County, "Vertellus Agriculture & Nutrition Specialties LLC" (326 IAC 6.5-6-31), which became effective on September 19, 2021. (Indiana Rule LSA #19-82). As requested by Vertellus, IDEM's revisions changed the particulate matter emission limits on several units where Vertellus made process and fuel changes to comply with the revised SO2 emission limits. Additionally, the revisions removed limits and references to units at the facility that are no longer operating or were demolished. The revisions at 326 IAC 6.5-6-31 also updated existing language and added new language related to the types of fuel burned in certain units. An explanation of the Clean Air Act (CAA) requirements, a detailed analysis of the revisions, and EPA's reasons for proposing approval were provided in the notice of proposed rulemaking (NPRM), dated September 30, 2022 (87 FR 59370), and will not be restated here.

II. What comments did we receive on the proposed rule?

In the NPRM, EPA provided a 30-day review and comment period for the proposed rule. The comment period ended on October 31, 2022. We received comments from two individuals during the comment period. These comments are in the rulemaking docket.

Comments from one individual were supportive of EPA's action but requested clarification. Those comments are summarized and addressed below.

Comment: The commenter requested clarification regarding the reductions in allowable particulate matter emissions cited in the NPRM, including the years referenced and whether the reductions were voluntary or required.

Response: As explained in the NPRM, the particulate matter limits currently in the SIP were established as part of the attainment demonstration for the Indianapolis, Indiana 2010 sulfur dioxide (SO₂) nonattainment area. IDEM's revisions changed the particulate matter emission limits on several units where Vertellus made process and fuel changes to comply with revised SO₂ limits relied upon in the attainment demonstration. IDEM's January 4, 2022, technical support document (TSD) quantified reductions in particulate matter emissions based on a comparison between the emission rates in tons per year (tpy) allowed under 326 IAC 6.5-6-31 before and after Indiana adopted the revisions, which became effective on September 19, 2021. Under revised 326 IAC 6.5-6-31, the allowable particulate matter emission rates for four units increased by a total of 0.7 tpy, while the allowable particulate matter emission rates for 11 units decreased by a total of 14.8 tpy. Overall, the revisions result in a decrease of allowable particulate matter emissions by 14.1 tpy.

Comment: The commenter requested EPA identify the other five sources of SO₂ in Marion County besides Vertellus that were included in the attainment demonstration and technical support document of IDEM's attainment plan for the 2010 SO₂ NAAQS, which

was submitted on October 2, 2015.¹ The commenter asked how the total emissions and emission limits of the other five sources compare to those of Vertellus.

Response: The six sources of SO₂ included in the 2015 Marion County 2010 SO₂ attainment demonstration and technical support document were Belmont Advanced Wastewater Treatment Plant (formerly Indianapolis Sludge Incinerator), Citizens Thermal (formerly Indianapolis Power & Light Company (IPL) Perry K Steam Plant), IPL - Harding Street Generating Station, Quemetco, Rolls Royce Corporation (formerly Allison Gas Turbine Plant 5 and Plant 8), and Vertellus (formerly Reilly Industries and Reilly Tar and Chemical).

The particulate matter and SO₂ limitations for the six sources under 326 IAC 6.5-6 and 326 IAC 7-4.2.1, respectively, are included in the SIP at 40 CFR 52.770(c). For Vertellus, the revised particulate matter total allowable annual emissions and rates for specified processes detailed in IDEM's January 4, 2022, TSD are 23.9 tpy and 0.011 to 0.150 lbs/million BTU (MMBtu). In comparison, the particulate matter total allowable annual emissions and rates for the other five sources are 144.1 tpy and 0.030 grains/dry standard cubic foot (dscf) for Belmont Advanced Wastewater Treatment Plant, 484.4 tpy and 0.015 to 0.175 lb/MMBtu for Citizens Thermal Perry K Steam Plant, 1,000.0 tpy and 0.015 to 0.135 lb/MMBtu for IPL - Harding Street

¹ August 2015, "1-Hour Sulfur Dioxide Attainment Demonstration and Technical Support Document for Central, West Central, and Southwest Indiana Nonattainment Areas". Prepared by Indiana Department of Environmental Management, Office of Air Quality. EPA-R05-OAR-2015-0700-0003.

Generating Station, 5.8 tpy and 0.016 grains/dscf for Quemetco, and 130 tpy and 0.15 lbs/MMBtu for Rolls Royce Corporation.

Comments from a second individual raised issues not addressed in EPA's proposed rulemaking, and that are neither germane nor relevant to this action. Moreover, none of the comments address a specific regulation or provision in question or recommend a different action on the SIP submission from what EPA proposed. Therefore, we are finalizing our action as proposed.

III. What Action is EPA Taking?

EPA is approving Indiana's September 16, 2021, request to revise its particulate matter SIP because the revised rule at 326 IAC 6.5-6-31 applicable to Vertellus strengthens the SIP by reducing allowable particulate matter emissions.

IV. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana Regulations described in section I of this preamble and set forth in the amendments to 40 CFR part 52 below. EPA has made, and will continue to make, these documents generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated

by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.²

V. Statutory and Executive Order Reviews.

Under the CAA the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);

² 62 FR 27968 (May 22, 1997)

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on

minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

IDEM did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of EO 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is

not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Particulate matter, Reporting and recordkeeping requirements,
Sulfur oxides.

Dated: March 9, 2023.

Debra Shore,
Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40 CFR part 52 is amended as follows:

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In §52.770, the table in paragraph (c) is amended by revising the entry “6.5-6-31” under “Article 6.5. Particulate Matter Limitations Except for Lake County”, “Rule 6. Marion County”, to read as follows:

§52.770 Identification of plan.

* * * *

(c) * *

EPA-Approved Indiana Regulations

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
* * *	* *	* *		
Article 6.5. Particulate Matter Limitations Except for Lake County				
* * *	* *	* *		
Rule 6. Marion County				
* * *	* *	* *		
6.5-6-31	Vertellus Agriculture & Nutrition Specialties LLC	9/19/2021	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
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[FR Doc. 2023-05282 Filed: 3/21/2023 8:45 am; Publication Date: 3/22/2023]